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BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS

STATE OF IDAHO

ORIGINAL

In the Matter of the)
License to Practice of:)
Grant Hildreth,)
License No. CHIA-77,)
Respondent.)

Case No. CHIA-02-95-002
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
FINAL ORDER.

On July 9, 1996, a hearing was held before the Idaho State Board of Chiropractic Examiners ("Board"), pursuant to a complaint which was filed December 7, 1995. Receipt of the written Notice of Hearing was acknowledged by the Respondent, Grant Hildreth.

The State of Idaho was represented by Kevin Satterlee, Deputy Attorney General and the Respondent, Grant Hildreth, appeared in his own behalf. The hearing was conducted by the members of the Board of Chiropractic Examiners and Kay C. Manweiler, Deputy Attorney General assisted in the capacity of hearing officer for the Board. Members of the Board attending the hearing were: Eric Boughton, D.C., Board Chairman, Tom Allegrezza, D.C., Glenn Moldenhauer, D.C. and Henry West, D.C..

Oral and documentary evidence was presented. At the conclusion of the hearing, it was agreed that Respondent would be provided the opportunity to provide copies of his psychological evaluation and a decision entered District Court of Montana concerning alleged violations of the terms and conditions of Respondent's deferred sentence. Subsequently, Respondent provided the psychological evaluation and advised the Hearing Officer, on behalf of the Board, that the information which he had intended to submit from the Montana proceedings was, in fact, contained in State's Exhibit E.

EVIDENCE CONSIDERED

The following documentary evidence was admitted:

State's Exhibits A, B, C and E;

Respondent's Exhibits 1 and 2.

THE COMPLAINT

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The Complaint which was filed on December 7, 1995, alleges that Respondent violated Sections 54-712(1) and 54-712(2), Idaho Code, as follows:

1. That Respondent was convicted of the commission of a felony, in the Fifth Judicial District Court, Beaverhead, Montana; in violation of Section 54-712(1), Idaho Code.

2. That Respondent failed to reveal this felony conviction as a part of his application for licensure as a chiropractor in the State of Idaho; in violation of Section 54-712(2), Idaho Code.

FINDINGS OF FACT

On July 10, 1992, Respondent Grant Hildreth was found guilty of the offense of Sexual Assault, a felony, in the District Court for the Montana Fifth Judicial District, Beaverhead County, Montana. On November 5, 1992, that court entered an Order deferring imposition of sentence for a period of six years, contingent upon Respondent's compliance with the terms, provisions and conditions of deferment as set forth in the Order.

On December 19, 1994, the Bureau of Occupational Licenses received an application for a license to practice chiropractic medicine in the State of Idaho from Respondent Grant Hildreth. Respondent swore on that application that the answers to the questions and statements made in the application were true and correct.

Question No. 12 on the application asked, "Have ;you ever been convicted of a violation of any Federal, State or Local Statute? If so, give details." Respondent answered "No" to question 12.

Respondent testified that he made this response based on advice of counsel. Respondent's Exhibit is a copy of a letter addressed to the Bureau Investigator indicating that attorney David F. Ness had advised Respondent that the decision of the court was not "final" and so a negative response to question 12 would be permissible. Attorney Ness indicated that the appellate court decision was not communicated by him to Respondent until after the first of January, 1995.

On January 18, 1995, Respondent was issued a license to practice chiropractic medicine in the State of Idaho.

By Order entered April 17, 1995, the Beaverhead County Court revisited the Hildreth matter. In that decision, the Court observed that Hildreth had admitted a failure to comply with the terms, provisions and conditions of the Court's previous deferred imposition of sentence. Based on the mitigating conditions, the Montana Court revoked the original deferred imposition of sentence and then deferred imposition of sentence of a period of six years

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(commencing April 14, 1996).

This deferred imposition of sentence was made, subject to Hildreth's compliance with certain terms and conditions. These included jail time, registry as a sex offender in any municipality in which he might reside, payment of an assessment to go to juvenile counseling, and the obtaining of a mental health evaluation and enrollment in counseling as directed by the probation/parole officer, among other things.

CONCLUSIONS OF LAW

1. The Idaho State Board of Chiropractic Examiners has jurisdiction and authority to conduct the hearing and consider the revocation of Respondent's license pursuant to Section 54-701, et seq., Idaho Code.

2. Respondent has testified that the original criminal prosecution against him was premised on political revenge. He has indicated that an inquiry by his church relieved or absolved him of any responsibility for the underlying allegations. Respondent points to the lenience which has been shown by the Montana Court in imposing a deferred sentence. These matters have been testified to by the Respondent as facts which the Idaho Board should consider in mitigation of its decision; however, none of these matters are controlling on the issues before this Board.

3. Regardless of whether or not Respondent violated Section 54-712(2), Idaho Code, by responding in the negative to question 12, he has been convicted of Sexual Assault, a felony. This conviction furnishes the basis for his current deferred sentence pending successful completion of his probation/parole in the State of Montana.

ORDER

Based upon the foregoing,

IT IS HEREBY ORDERED AND THIS DOES ORDER, that the License to Practice Chiropractic, Numbered 77, previously issued to Grant Hildreth, be and is hereby revoked, commencing immediately.

At such time as Respondent Hildreth is able to provide the Board with documentation indicating that he has successfully fulfilled the terms and conditions of the Montana Court in its Order of April 17, 1995, the Respondent may apply for licensure in the State of Idaho.

This is a final order of the Board. The Respondent may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its

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receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of Ada County, Idaho.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 22nd day of July, 1996.

BOARD OF CHIROPRACTIC EXAMINERS


Henry G. West, D.C.,
Chairman